



Paper No. 5

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**JUN 25 2002**

In re Application of  
Hshieh, et al.  
Application No. 10/010,162  
Filed: November 20, 2001  
Attorney Docket No. GS 149

: **OFFICE OF PETITIONS**  
:  
: **DECISION GRANTING**  
: **PETITION**  
:

This is a decision on the correspondence entitled, "PETITION TO CORRECT THE FILING DATE UNDER 37 CFR 1.183," filed April 9, 2002, (certificate of mailing date April 4, 2002) requesting that the above-identified application be accorded a filing date of November 20, 2001, instead of the presently accorded date of December 10, 2001. The petition will be treated under 37 CFR 1.6(e).

Petitioners attempted to deposit the application in "Express Mail" service with the U. S. Postal Service (USPS), on November 20, 2001. Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail service to Washington, D.C. zip codes 202xx through 205xx. The United States Patent and Trademark Office (USPTO) designated this interruption in USPS Express Mail service as a postal service interruption within the meaning of 35 USC 21(a) and 37 CFR 1.6(e).

The USPTO published a notice in the Official Gazette on October 9, 2001 that provides guidance in situations like this one, when deposit in Express Mail was refused due to the suspension. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001).

In accordance with the O.G. Notice and 37 CFR 1.6(e), petitioners have mailed the USPTO a copy of the correspondence by first class mail with a statement by the person who originally deposited the correspondence with the USPS by Express Mail, Marjorie Scariati, Patent Paralegal.. The properly signed and dated statement declares that Ms. Scariati attempted to deposit the correspondence into Express Mail on November 20, 2001, but the USPS refused to accept it.

The evidence is convincing that petitioners attempted to deposit the application as "Express Mail" with the U.S. Postal Service on November 20, 2001, but due to a postal emergency, the package was refused by the USPS. In addition, petitioners promptly filed the application by another means of postal delivery after the Express Mail package was refused by the USPS.

In view of the above, the petition is granted.

No petition fee has been or will be charged in connection with this matter.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 20, 2001. Thereafter, the application will be forwarded to Technology Center Art Unit 2812 for examination in due course.

Telephone inquiries concerning this matter should be directed to Petitions Attorney E. Shirene Willis at (703)308-6712.

A handwritten signature in cursive script, appearing to read "Beverly M. Flanagan".

Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy